November 2005

REPORT ON THE LOCAL AUTHORITIES ELECTION ACT REVIEW

MLA Committee

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106-02197/

November 10, 2005

Honourable Rob Renner
Minister of Municipal Affairs
#227 Legislature Building
10800 - 97 Avenue
Edmonton, Alberta T5K 2B6

Dear Mr. Minister:

We have the honour to submit the Committee's draft report on the review of the *Local Authorities Election Act*. The draft report includes our recommendations for amendments to the Act and its regulations.

We would like to thank the many Albertans who attended the public meetings, made presentations, submitted suggestions, and took the time to comment on the processes and procedures prescribed for elections held under this Act.

This draft report summarizes what we heard during our meetings and from the submissions received from concerned individuals. It includes our recommendations for amendments based on those that can be feasibly made before the next general elections scheduled for 2007 and those matters that might be considered after 2007 with more research and consultation. We recommend that you consult further with representatives of key stakeholders prior to finalizing proposed amendments to the Act to ensure the intent of our recommendations are reflected in the implementation.

We are hopeful that our recommendations will improve the public's confidence and trust in the local authority election process in Alberta.

We would be pleased to discuss our recommendations with you at your convenience.

Yours truly,

Raymond Prins, MLA
Lacombe-Ponoka
Committee Chair

Lloyd Snelgrove, MLA
Vermilion-Lloydminster
Committee Member

Ron Liepert, MLA
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Executive Summary

The Honourable Rob Renner, Minister of Municipal Affairs, committed to an enhanced review of the *Local Authorities Election Act* and its regulations, after the October 18, 2004 general elections. This enhanced review, led by an MLA committee, focused on local election procedures and issues, including voter identification and lists, special ballots, campaign advertising, and terms of office. The Committee was also responsible for reviewing the recommendations of the Clark Inspection Report, which looked into alleged irregularities in the 2004 Calgary Ward 10 election.

The Committee's terms of reference for the review included nine specific themes that were required to be included in a report making policy recommendations for potential amendments to the *Local Authorities Election Act*. The Committee recommended amendments that should take place prior to the next general elections scheduled for 2007 and those that should be considered after the general elections in 2007 due to requirements for further research and/or consultation.

To guide the Committee in its recommendations for potential amendments to the *Local Authorities Election Act*, the following principles were used:

- promote integrity and public confidence in the election process by setting appropriate election standards that result in a more secure and transparent election process;

- acknowledge and encourage the public's role and participation in the election process; and

- ensure the legislation permits small and large jurisdictions to respond to their specific election process needs by permitting some discretionary procedural options within the legislation's framework.

The Committee is very aware that the impetus for the enhanced review was due, in part, to the Clark Inspection Report. This inspection was an investigation into a single instance of alleged voter fraud in the City of Calgary Ward 10 election, which the system did detect. However, the Committee did not find any evidence throughout its public meetings of any other formal challenges to the electoral process. In fact, the Committee heard that the process has worked well, and there are few significant issues or problems with the *Local Authorities Election Act*. The Committee did hear that there would be significant opposition for major reform to rectify one problem that would create a cumbersome and more difficult system.

The Committee conducted 18 public meetings across Alberta and received 84 submissions in response to the meetings and a consultation document that was

available on Alberta Municipal Affairs' website. Although several themes emerged from the meetings and written submissions, the one theme that was raised at every public meeting was that of low voter turnout at municipal and school elections. It was viewed as an overarching symptom of the system. While the issues underlying low voter turnout are complex, addressing them will require a shared responsibility among the Province, local jurisdictions and the public. The Committee has included some recommendations that are intended to improve voter turnout for local elections, but the issue of voter turnout is one that requires a many faceted long-term approach to fully address.

The Alberta Municipal Clerks Association made a presentation based on the following six principles:

- ensure democratic principles are respected;
- provide a positive voter experience;
- efficiencies in terms of cost and effort to implement an election;
- participation is encouraged for all eligible voters;
- the process is secure from external interference; and
- the process and legislation is clear and reasonable for all involved in the election.

These principles were accepted by the Committee and used to further support the recommendations in this report.

In addition to the above principles, and after hearing the public and reviewing the submissions, the Committee based its recommendations on the following:

- integrity in the electoral process, and public confidence in and trust of the process is of the utmost importance;
- the goal is to get the voter back to participating in the electoral process, and the system should not make it more difficult for voters to vote;
- the Committee presumes that people are essentially honest with the voting system;
- the legislation should be enabling in nature and provide flexibility to elected authorities to allow them to address local circumstances and needs in the conduct of their elections, but prescriptive enough to provide a secure framework under which the elections are conducted;
- the Committee's view of the role of the returning officer is that it should be an independent, neutral party responsible for conducting and administering the election, and should not be responsible for policing it; and
- candidates and voters need to take some ownership and responsibility in the democratic process.

The Committee therefore recommends the following proposed amendments be considered prior to the 2007 general elections:

- regarding special ballots:
  - allow elected authorities the discretion to use special ballots if they pass a resolution no later than 6 months prior to nomination day;
  - allow applications for special ballots to be accepted by e-mail in addition to telephone, fax, in writing, or appearing in person;
  - allow elected authorities the discretion to set their own timing on when to provide and accept applications for special ballots;

- regarding voter identification requirements:
  - provide an elected authority the discretion to make a bylaw no later than 6 months prior to nomination day regarding the use of voter identification, including the type and number of documents that may be required for all voters to verify identity and age;
  - if an elected authority wishes to pass a bylaw regarding voter identification requirements, the bylaw must be advertised and the requirements must also be included in the notice of election;
  - if an elected authority passes such a bylaw, and a person cannot produce the required identification to verify his or her identity or age, then that person cannot make a statement of eligibility to vote under section 53.

- regarding returning officer's authority to deal with alleged contraventions:
  - allow the returning officer to set aside special ballots received that are believed to be in contravention of the Act, and to report the alleged contraventions to a person or persons appointed by the Minister to determine the validity of the ballots;
  - remove the requirement for the returning officer to make a note of objection on the nomination papers if, on reasonable and probable grounds, the candidate is believed to be ineligible;

- regarding the campaign process:
  - include a definition of "agent";
  - allow a candidate the discretion to appoint one elector as an agent, who may act in an official capacity on behalf of the

candidate, and name that person on his or her nomination papers;

- include a definition of "scrutineer";
- require scrutineers to sign only the prescribed statement and not swear an oath.
- make a person who is convicted of an offence related to a controverted election under the *Local Authorities Election Act* ineligible to be an agent or scrutineer for a candidate for a period of 10 years after the date of conviction;
- render candidates (rather than the elected authority) responsible for issuing identification to their campaign workers, but using a form prescribed in the Act and obtained from the elected authority;

- regarding candidate eligibility if previously convicted of a crime:
  - make a person who is convicted of an offence related to a controverted election under the *Local Authorities Election Act* ineligible for nomination to be a candidate for a period of 10 years after the date of conviction;

- regarding other issues raised by stakeholders:
  - enable the returning officer to delegate any of his or her duties to other appointed election officers, subject to any restrictions or conditions specified in the delegation;
  - clarify that the returning officer must discharge his or her responsibilities under the law independently and impartially;
  - enable a returning officer to initiate a recount due to a suspected administrative or technical error in the results accumulation and reporting processes;
  - allow an elected authority with a population of 10,000 or more to set the number of signatures required for nomination up to 100, and the amount of deposit required up to $1,000;
  - allow an elected authority, in its campaign contributions and expenses bylaw, the discretion to have the audited statement of a candidate's campaign contributions and expenses reviewed by an independent third party to ensure compliance with the bylaw;

- **allow an elected authority the discretion to include in its campaign contribution and expense bylaw provisions regarding how surplus campaign funds are to be addressed;**
- **clarify that, in addition to the residency requirements, those persons eligible to vote in summer village elections are those listed on the Certificate of Title, rather than on the tax roll, as well as the spouses of those listed on the Certificate of Title;**
- **remove the qualifications for an elector to vote at an advance vote to provide the opportunity to vote at a time other than election day;**
- **allow a local jurisdiction the discretion to provide voting instructions in languages other than English to those voters who need assistance due to being unable to read or understand the English language;**
- **allow scrutineers, agents and candidates to attend institutional voting stations but not be allowed to go from bed to bed when the deputy is conducting a bed to bed vote;**
- **streamline the approval of modifications to the election process so that the Minister, rather than the Lieutenant Governor in Council, can pass regulations to modify an election process prescribed in the Act;**
- **allow the elected authority, in addition to a candidate or elector, to raise election issues before the court;**
- **provide authority to include the number of persons objected to on the ballot account form;**
- **include a number of technical and administrative amendments referred to under item 15 in Issues and Recommendations of the Main Report; and**
- **amend the Local Authorities Election Act Forms Regulation as a result of amendments made to the Act and review the forms for streamlining opportunities.**

The Committee recommends the following matters be considered for potential change after the 2007 general elections following more consultation and/or research:

- **regarding common terminology and processes between the *Local Authorities Election Act* and the *Election Act*:**
  - **Alberta Municipal Affairs should consult and work with Elections Alberta and other stakeholders to identify and determine which, if any, processes, procedures and rules could**

be made more consistent, and then recommend changes to terminology, where appropriate, that would be common to those processes, procedures and rules;

- **regarding term of office:**
  - **the current provision in the Act should remain at 3 years for the time being, and further consultation should occur before any amendments to change the term be considered;**
- **regarding alternative voting:**
  - **a review group should be formed consisting of representatives from municipalities and the Province to examine alternative voting methods, as well as consider the potential security, privacy, validation and process issues that may arise as a consequence of implementing alternative voting methods.**
  - **allow a local jurisdiction the discretion to establish special voting stations;**

Other items were investigated or raised as part of the review. Having heard the public consultations and reviewed the written submissions, the Committee recommends that the following items in the Act remain unchanged at this time:

- **regarding special ballots:**
  - **the requirement to produce a list of electors if using special ballots to remain at the discretion of the elected authority;**
- **regarding campaign processes:**
  - **the restrictions of the posting of campaign materials where a voting station is located is sufficiently covered under section 152;**
- **regarding offence provisions:**
  - **offence provisions specific to special ballots do not need to be added as it is covered under section 148;**
- **regarding other issues raised by stakeholders during the review:**
  - **the timing of elections remain as the 3rd Monday of October;**

- voter residency criteria to remain as a resident on the day of the election and six consecutive months prior to election day;
- voter residency requirements for students to remain as deemed to be where their family resides;
- tie breaking to remain as a draw out of a hat; and
- provisions relating specifically to the election of school board trustees to remain as is, but the issues and concerns noted herein will be forwarded to Alberta Education for its consideration.

MAIN REPORT

Introduction and Background

The *Local Authorities Election Act* was enacted in 1983. The purpose of the Act is to prescribe the standards and processes for elections for municipal councils and school board trustees.

The *Local Authorities Election Act* is usually reviewed after general municipal and school board elections, which are held every three years. It has been amended periodically over the years as election issues arose. Recent amendments made in 2003 provided for voting by special ballots.

Alleged voter fraud in the use of special ballots in Ward 10 in the Calgary 2004 general election prompted the Minister of Municipal Affairs to appoint Mr. Bob Clark, former Alberta Ethics and Privacy Commissioner, to conduct an inspection into the incident. The report made 16 recommendations, some of which are incorporated into the enhanced review of the *Local Authorities Election Act*.

Subsequent to the Clark Inspection Report, the Minister appointed an MLA Committee to conduct an enhanced review of the *Local Authorities Election Act* and its attendant regulations. This report summarizes the input received by the MLA Committee from public meetings held between September 28, 2005, and November 8, 2005. Stakeholder groups and individual Albertans provided input through meetings with the MLA Committee, verbal and written presentations, and/or by completing questionnaires.

The report starts by recounting the Committee membership and its mandate, followed by describing the enhanced review process that was undertaken. The Committee's findings and recommendations are then grouped by themes. Each theme includes a topic or set of topics, a brief background of the relevant issues pertaining to the topic(s), the Committee's recommendation and the rationale for its recommendation.

Committee Membership and Mandate

Following the difficulties in the City of Calgary Ward 10 general municipal election regarding special ballots, the Minister of Municipal Affairs, Honourable Rob Renner, committed to an enhanced review of the *Local Authorities Election Act*. To lead the review, the Minister appointed an MLA Committee in September 2005. The Committee consists of Mr. Ray Prins, MLA for Lacombe-Ponoka (Chair); Mr. Lloyd Snelgrove, MLA for Vermilion-Lloydminster; and Mr. Ron Liepert, MLA for Calgary West.

The Committee is assigned to review stakeholder input on all processes prescribed in the *Local Authorities Election Act*, develop solutions and options, incorporate the recommendations from the Clark Inspection Report and, where appropriate, commission research into new processes to address particular election issues. The Committee is to propose amendments that can reasonably come into effect before the next general municipal elections in 2007, as well as identify additional potential amendments that warrant further research and consultation but may not be appropriate for immediate incorporation into the *Local Authorities Election Act*.

Specifically, the Committee is to address and recommend on the following specific issues, as well as any other matters the Committee deems appropriate:

1. The factors identified by the stakeholders during the review process;
2. The appropriateness of the provisions of the *Local Authorities Election Act* particularly in regard to the following:

    (a) the special ballot provisions for local authority elections;
    (b) the voter identification requirements for local authority elections;
    (c) the returning officer's authority to decide on and deal with alleged contraventions of the *Local Authorities Election Act*;
    (d) the provisions that deal with the campaign process, including its fairness and transparency;
    (e) the issue of candidate eligibility if previously convicted of a crime under the Criminal Code, and/or the process to disclose this information;
    (f) the offence provisions described in the *Local Authorities Election Act*, in light of new election processes being adopted;
    (g) the possibility of developing common terminology to be used in the statutes and regulations governing both provincial and local elections; and
    (h) the term of office of elected municipal and school officials.

Enhanced Review Process

The enhanced review process involved an MLA Committee and extensive public consultations by the Committee.

The MLA Committee held a total of 18 public meetings in the following municipalities: Bonnyville (September 28); Grande Prairie (September 29); Calgary (October 5 and 6, November 1); Edmonton (October 11, 12, and 18); Fort McMurray (October 13); Red Deer (October 31); Lethbridge (November 2); and Medicine Hat (November 8).

The Committee heard a total of 66 presentations and received 36 submissions at these public meetings. In addition, the Committee held an open house at the Alberta Urban Municipalities Association convention on October 6, 2005, which attracted about 40 attendees. The Committee also attended the annual meeting of the Association of Summer Villages on October 22, 2005, to hear comments and concerns from delegates relating to elections held in summer villages. As well, the Committee discussed comparable election processes, administration, terminology, and penalty provisions with staff of Elections Alberta throughout the consultation period.

In preparation for the MLA Committee's public consultation meetings, Alberta Municipal Affairs conducted 10 focus group meetings around the province with municipal returning officers and chief administrative officers to obtain initial feedback on election issues identified from the 2004 general elections. The meetings were held at the beginning of June 2005 in Edmonton, Viking, St. Paul, Athabasca, Red Deer, Drumheller, Taber, High River, Peace River, and Grande Prairie. Constructive feedback was also received from the Alberta Municipal Clerks Association. This Association represents returning officers and those officers who conduct the municipal elections prescribed in the *Local Authorities Election Act* and its regulations.

Alberta Municipal Affairs staff also met with Alberta Education, Elections Alberta, and Ms. Kelsey Becker Brookes, who was contracted by the Society of Local Government Managers and Municipal Affairs to conduct the 2004 election training seminars.

A consultation document was available for review on the Municipal Affairs' website during the time of the scheduled public meetings. A total of 53 submissions were received in response to this consultation document.

A listing of those who made presentations or submissions at the public meetings, and those who provided an on-line or written submission to the consultation document is included in the Appendices.

Issues and Recommendations

1. Voter Turnout

The overarching topic heard by the Committee at virtually every public meeting was voter turnout, which appears to be, for all intents and purposes, the performance measurement for voter participation in the electoral process.

There was great concern expressed by elected officials, election officers, and the public about the trend of low voter turnout. Electoral participation has been steadily declining across Canada in elections for all levels of government, with record low voter turnouts in many instances. It is of particular concern for municipal elections due to the fact that numbers are far lower than for provincial or federal elections. The Committee heard of one jurisdiction which had a voter turnout in the range of 15% in the 2004 election.

Voter apathy, when people do not see voting as being relevant in their lives, is one of the main causes for low voter turnout. When electors have strong views on issues or candidates, there is a tendency for increased voter participation at elections.

Other reasons the Committee heard for low voter turnout include the following:

- the increasingly busy personal lives of people, which make it more difficult for them to find the time to vote;
- unless there are no incumbents in an election, there seems to be a perception that an elector's vote does not count as incumbents always seem to be re-elected;
- municipal politics are not viewed as exciting;
- municipal politics lack a party system; and
- municipal politics are not leadership based.

Particularly troubling is the low voter turnout among youth voters. It has been noted that the apparent low rate of voter turnout among young adults is disproportional to that of the rest of the population of electors. Unfortunately, little analysis has been performed to assess why there is such a low youth participation rate in municipal elections. Some young people have stated that they simply do not feel connected to or affected by government. The Committee feels that some other reasons for low voter turnout among youth may include the following:

- youth are not informed about municipal politics;
- youth have a cynical outlook on politics;
- youth do not have a vested interest in the outcome of municipal elections;

- voting is perceived as inconvenient by youth; and
- youth prefer other political outlets to voting, such as youth political policy groups.

Equally troubling is that in-depth research has not been conducted to determine appropriate measures to encourage greater participation rates among youth voters at the local level.

The issue of voter turnout is one that requires shared responsibility and needs to be addressed by all parties involved in the election process. First, the Province needs to provide legislation that instills public confidence and trust in the election process. Second, elected authorities need to properly implement those processes at the local level and adopt those discretionary election procedures to address their voters' needs. Finally, voters need to take responsibility for election issues, become engaged in the process, and ultimately participate by casting their ballot.

To help reverse voter apathy, electors need to become engaged in civics and government. Greater education about elections was often cited as a tool for engagement. For younger adults, engagement might be a process that begins in school, with classes in civics. Curriculums should place a stronger emphasis on democracy, political involvement and the importance of voting. To this end, election administrators might consider partnering with Alberta Education.

In some circles, hopes have been expressed that electoral reform will encourage electors to participate actively in the democratic process and vote in future elections, primarily through the introduction of innovative alternative voting mechanisms. It has been suggested that such voting mechanisms and the use of different media for different audiences would encourage younger people, in particular, to become engaged in the electoral process.

While the overall goal is to increase voter interest and participation in the democratic process, it will require action and commitment from the Province, elected authorities, election officers, and the public to be successful.

2. Authority of Returning Officer

2.1 Returning officer authority to delegate duties and discharge duties independently

The returning officer is the person appointed by an elected authority for the purpose of conducting its election under the *Local Authorities Election Act*. However, the returning officer cannot physically be present in all of

the voting stations in larger jurisdictions because of the number of voting stations.

In some smaller local jurisdictions the returning officer may be an employee that reports to the council or board of trustees. In certain circumstances this may place the returning officer in uncomfortable situations while performing his or her duties.

It is recommended that the Act be amended prior to 2007 to enable the returning officer to delegate any of his or her duties to other appointed election officers, subject to any restrictions or conditions specified in the delegation.

This ability to delegate would provide the opportunity for administrative efficiencies, with the returning officer still responsible for the election overall. This concern is partially addressed in section 1.1 of the Modified Voting Procedure Regulation, relating specifically to the delegation of a note of objection on the voting register. It is suggested that this section be included in the *Local Authorities Election Act* and expanded to allow the delegation of any of the returning officer's duties.

It is further recommended that the Act be amended prior to 2007 to specify that the returning officer must discharge his or her responsibilities under the law independently and impartially.

The recommendation reinforces the Committee's view that the returning officer should be responsible for complying with his or her legislated duties and implementing the process as a neutral party.

2.2 Returning officer authority to deal with alleged contraventions

(a) Returning officer authority to reject a ballot

The *Local Authorities Election Act* requires a ballot be provided to a voter if he or she makes the prescribed statement and that any ballot received in accordance with the election processes be included in the count.

There is no authority or process for a returning officer to refuse to provide a ballot to an individual if the election officer doubts the eligibility of the voter. However, it is an offence if a returning officer or deputy takes or receives a vote in contravention of the Act.

The issue of accepting ballots that were questionable occurred regarding a number of special ballots during the City of Calgary Ward 10 election. It was proposed in the Clark Inspection that the Act specify the authority for

a returning officer to reject a ballot for which it would be an offence to count under section 149(a).

It is the Committee's view that the role of the returning officer is to facilitate the election process and not act in judgement of alleged contraventions but rather refer them to the Minister for further action.

It is recommended that the Act be amended prior to 2007 to include the authority for the returning officer to set aside special ballots received that are believed to be in contravention of the Act. It is further recommended the alleged contravention be reported to a person or persons appointed by the Minister to determine the validity of the ballots.

This recommendation clarifies the procedure required to ensure integrity is maintained in the process and that the returning officer is not put in the position of policing the provisions or having to accept ballots that are questionable.

(b) Nomination

The *Local Authorities Election Act* requires a returning officer to accept a nomination paper when it is completed and filed during the specified time period.

There is no authority or process for a returning officer to refuse to file a candidate's nomination paper if the election officer doubts the eligibility of the candidate.

It was suggested that as part of the nomination process, a candidate must confirm in writing, to be attached to the nomination papers, that the person is eligible to be nominated in accordance with the Act. Further, it was suggested that the candidate must produce 2 identification/residency documents similar to the documents proposed to be required for voter identification (i.e. driver's licence, utility bill, etc.) to the satisfaction of the returning officer.

It is the Committee's view that the onus should fall upon candidates to comply with the requirements; it is their responsibility to read and understand the requirements and criteria concerning their eligibility. They acknowledge this by signing the mandatory statement of eligibility.

It is recommended that the Act not be amended to require the returning officer to verify candidate eligibility.

The receipt of identification would transfer responsibility for the determination of eligibility from the candidate to the returning officer. It is the Committee's view that this should not be the role of the returning officer. The signed declaration, as currently in place, retains this responsibility with the candidate.

The Act allows a returning officer to make a note on nomination papers if he or she has reasonable and probable grounds to believe that a person nominated is not eligible to be a candidate. However, it does not allow a returning officer the authority to reject nomination papers. Any further adjudication of the matter takes place after the election by the court if challenged by an elector or other candidate.

The Alberta Municipal Clerks Association has asked that the note of objection be removed from the form because it conflicts with the role of the returning officer as a facilitator of the election process by requiring the returning officer to take on a policing function.

It is recommended that the Act be amended prior to 2007 to remove the requirement for the returning officer to make a note of objection on the nomination papers if, on reasonable and probable grounds, the candidate is believed to be ineligible.

It is the Committee's view that the returning officer must be a neutral party for the purposes of conducting an election. Even in situations where there is reasonable cause to doubt a candidate's eligibility, it is not the returning officer's place to reject the nomination. This matter is best left to electors, other candidates or parties to challenge through the court system.

2.3 Returning officer authority to initiate a recount

There is currently no procedure in place for a returning officer to initiate a recount due to administrative error. The returning officer is only able to initiate a recount if the number of valid ballots objected to would affect the result of an election.

Suspected errors in the results accumulation and reporting processes can result in a need for a recount and the only way in which this can currently be undertaken is by Ministerial Order under section 6 of the *Local Authorities Election Act*.

It is recommended that the Act be amended prior to 2007 to enable a returning officer to initiate a recount due to a suspected administrative or technical error in the results accumulation and reporting processes.

This recommendation enables a returning officer to respond quicker to correct an error in a transparent fashion that will retain public confidence in the integrity of the electoral system.

3. Term of Office

The *Local Authorities Election Act* sets the term of office for an official elected under this Act as 3 years. It was suggested that consideration should be given to extend the term of office to 4 years from the present 3-year term. Opinion on this issue is widely split.

It is recommended that the current provision in the Act remain at 3 years, and further consultation occur before any amendments to change the term be considered.

A number of matters were raised to the Committee regarding term of office which warrant further discussion. These include set terms, maximum number of terms, recall provisions, split terms (electing half of council every election), and consistency with elections for school board trustees.

4. Timing of Elections

Currently, section 11 of the *Local Authorities Election Act* fixes the general election day as the 3rd Monday in October for all local jurisdictions except for summer villages. Section 11 of the Act allows for one exception, which is that an elected authority may, if a bylaw is passed prior to June 30th of the election year, fix the election day as the Saturday immediately preceding the first Monday in October.

Several suggestions were made to the Committee to change when general elections may be held. These suggestions ranged from April to mid-November, or to coordinate the election date with a proposed set provincial election date.

It is recommended that the current provision be retained as the 3rd Monday in October.

There was no clear majority or consensus on moving the date to another time of the year.

5. Nominations

5.1 Candidate residency

The *Local Authorities Election Act* does not require a candidate to be a resident in the ward located in a city or school district where they intend to run.

It is the Committee's view that the current provisions regarding candidate residency in these circumstances remain unchanged.

The voter is the best person to determine who should represent his or her area and can do so by casting his or her ballot on election day.

5.2 Criminal disclosure

There are no provisions in the *Local Authorities Election Act* regarding candidates' eligibility if they have a criminal record.

The Clark Inspection recommended that the *Local Authorities Election Act* be amended to provide that a person who is convicted of an offence related to a controverted election under the Act is not eligible for nomination for office for 10 years after the date of conviction.

It is recommended that the Act be amended prior to 2007 to make a person who is convicted of an offence related to a controverted election under the *Local Authorities Election Act* ineligible for nomination to be a candidate for a period of 10 years after the date of conviction.

It is further recommended that the Act be amended prior to 2007 to make a person who is convicted of an offence related to a controverted election under the *Local Authorities Election Act* ineligible to be an agent or scrutineer for a candidate for a period of 10 years after the date of conviction.

This recommendation provides for enforcement and supports the integrity of the election process.

5.3 Number of signatures and amount of deposit required for nomination

A candidate's nomination must be completed using the prescribed form and signed by at least 5 electors eligible to vote. In the case of a city or a school board of trustees, however, an elected authority may specify, by

bylaw, a minimum number of electors required to sign a nomination form. That number must be at least 5 and not more than 25.

An elected authority may require that every nomination be accompanied with a deposit in the amount fixed by bylaw which may not exceed:

- $500, in the case of a local jurisdiction with a population of more than 100,000, or
- $100, in any other case.

Some larger jurisdictions have asked for higher maximum limits for number of signatures and amount of deposit required for nomination, although the amount of deposit required should not create barriers for people with less money.

It is recommended that the Act be amended prior to 2007 to allow an elected authority with a population of 10,000 or more to set the number of signatures required for nomination up to 100, and the amount of deposit required up to $1,000.

The recommendation is enabling and provides more flexibility for larger jurisdictions regarding criteria for candidate nominations. The recommendation reduces the population level from 100,000 to 10,000 to allow more jurisdictions to have this flexibility. Local jurisdictions under 10,000 population would remain under current provisions with a maximum of 25 signatures required and a maximum deposit of $500.

5.4 Timing of nomination period (hours)

The *Local Authorities Election Act* requires nominations to be received by the returning officer at the local jurisdiction office between 10 a.m. and 12 noon on nomination day. Nominations may be received earlier than 10 a.m. on nomination day if a municipal council or school board has passed a bylaw for same, prior to June 30th in the year of an election.

There was a suggestion to expand the present timeframe to 4 hours.

It is recommended that the current provision remain unchanged.

The Act already provides municipal councils and school boards the discretion to pass a bylaw to extend the hours for receipt of nominations.

6. Campaign Funds and Disclosure

6.1 Eligible campaign contributors

The *Local Authorities Election Act* does not have any provisions regarding who can or cannot contribute to a candidate's campaign.

There were allegations that candidates received funds from municipally owned entities, tax-exempt charities, and from other candidates. It was suggested that some restrictions be considered regarding who can contribute to a candidate's campaign.

It is recommended that no amendments be made to the Act to add who can or cannot contribute to a candidate's campaign.

There is existing legislation for registered charities and non-profit groups regarding making a donation to campaign activities. Despite the allegations, it is the Committee's view that no further restrictions need to be set out in the Act.

6.2 Campaign fund limits or cap

The *Local Authorities Election Act* does not contain any provisions regarding the amount a candidate may receive in contributions from any one person or organization or disclosure of same.

There were suggestions to restrict contributions by any one person, corporation, trade union or employee organization to a candidate to a maximum of $2,000, and to require all contributions received by a candidate exceeding $375 to be disclosed.

It is recommended that no amendments be made to the Act regarding campaign fund limits.

The existing provisions regarding allowable election expenses in section 118 allow an elected authority to establish its own limits. This section is enabling and allows elected authorities to address local needs.

6.3 Tax deductible contributions

Unlike provincial and federal campaign donations, municipal and school board campaign contributions are not tax deductible.

It has been suggested that the lack of tax deductibility for municipal contributions makes it less attractive to contribute compared with provincial and federal campaigns.

It is recommended that no amendment be made to the Act to allow tax deductions for local authority campaign contributions.

The appropriate legislation regarding tax deductions is addressed under other legislation, which is out of scope for this review.

6.4 Campaign contributions and expenses bylaw

The *Local Authorities Election Act* allows an elected authority to pass a bylaw to disclose to the public the campaign contributions and expenses incurred by candidates in an election. The bylaw must define "campaign contributions" and "campaign expenses". The statements made by the candidates must be audited.

Concerns have been expressed regarding the type of donations made to candidates and whether all of the donations are therefore included in the definition of "campaign contributions". As well, several people made suggestions that an independent auditor should conduct the audit.

It is recommended that the Act be amended prior to 2007 to allow an elected authority, if it has passed a campaign contributions and expenses bylaw, the discretion to have the audited statement of a candidate's campaign contributions and expenses reviewed by an independent third party to ensure compliance with the bylaw.

This recommendation gives elected authorities more flexibility with regard to campaign disclosures. A review by an independent third party of such contributions and expenses may help to instil public confidence and trust in such disclosures.

6.5 Surplus campaign funds

The *Local Authorities Election Act* allows an elected authority to pass a campaign contributions and expenses bylaw, but it does not mention how surplus funds are to be addressed.

Several people expressed concern over the lack of provisions regarding what to do with surplus campaign funds.

It is recommended that the Act be amended prior to 2007 to allow an elected authority the discretion to include in its campaign contribution and expense bylaw provisions regarding how surplus campaign funds are to be addressed.

This recommendation provides the elected authority with enabling authority and provides more transparency to the campaign fund raising process.

7. Campaign Processes

7.1 Agent

The *Local Authorities Election Act* currently provides for an agent to represent a candidate at a voting station on election day.

The Clark Inspection Report included a recommendation to develop common terminology to be used in the statutes and regulations governing both provincial and local elections.

The Committee's view is that the provincial process is a good model respecting agents, and therefore makes the following recommendation.

It is recommended that the Act be amended prior to 2007 to define "agent" and allow a candidate the discretion to appoint one elector as an agent who may act in an official capacity on behalf of the candidate, and name that person on his or her nomination papers.

This recommendation supports consistency in terminology between local and provincial elections, and provides a candidate the discretion to appoint an agent. The present role of agent under the Act would become that of a scrutineer.

7.2 Definition of scrutineer

The *Local Authorities Election Act* does not define the term "scrutineer".

It is recommended that the Act be amended prior to 2007 to include a definition for "scrutineer", so that it is understood that a scrutineer means a person over 18 years of age who is authorized to represent a candidate in that local jurisdiction at a voting station.

The recommendation introduces the role of scrutineer, which largely mirrors the current role of agent. This recommendation helps to achieve consistency between the *Election Act* and the *Local Authorities Election Act*.

7.3 Oath of agent (proposed to be "scrutineer")

The *Local Authorities Election Act* requires agents (proposed to be scrutineers) to both swear an oath and sign a statement to gain access to voting places. Both of these processes use different forms and require different people to administer them.

Some returning officers have suggested that agents (proposed to be scrutineers) should only be required to make a statement.

It is recommended that the Act be amended prior to 2007 to require scrutineers to sign the prescribed statement only, and not take an oath.

The requirement for agents (proposed to be scrutineers) to undertake both an oath and a statement is redundant.

7.4 Campaign worker identification

Section 52 of the *Local Authorities Election Act* requires that campaign or candidate worker identification for access to multi residence buildings and mobile home parks be provided by the elected authority.

Both candidates and returning officers have suggested that the onus for campaign worker identification should be placed with the candidate and not the returning officer.

It is recommended that the requirement for campaign workers to present identification be maintained. However, the Act should be amended prior to 2007 to render candidates (rather than the elected authority) responsible for issuing identification to their campaign workers. The elected authority would be responsible to provide the prescribed form of identification (similar to that used in provincial elections) to the candidates who, in turn, will then issue identification to their workers.

Candidates have noted that the current identification requirement has impacted their ability to recruit campaign workers due to the process

required to obtain completed identification forms to access secure buildings.

Some larger jurisdictions have noted that they lack the necessary resources to provide identification for campaign workers.

The recommendation tries to provide a balance between security concerns of residents of multi-residence buildings, administrative and resource concerns of returning officers, and campaign process concerns of candidates.

7.5 Signage and materials around voting station

Under the *Local Authorities Election Act* it is an offence to display any advertisement, poster, etc. that is not posted by the deputy in accordance with the election procedures inside of, outside on, or within a building used as a voting station.

Some candidates have used the boulevard or frontage area in front of the voting station or the parking lot to display campaign materials on election day. There is no authority for election officers to prevent this type of advertising on election day.

Some have complained that the access to the voting station is not politically neutral as a result of the campaign signs and therefore affects the integrity of the process. They suggest that some restrictions be incorporated into the Act, perhaps expressed as setting a certain distance from the facility.

It is recommended that the current provisions in section 152 of the Act remain unchanged.

It is the Committee's view that the current provisions are adequate to address most situations. Adding more restrictions may make it more difficult to monitor and enforce.

8. Voter Eligibility and Identification

8.1 Residency

The Alberta rules of residency state that a person may only have one place of residence for the purpose of the *Local Authorities Election Act*. A person's residence is defined as the place where he or she lives and

sleeps and to which, when the person is absent, he or she intends to return. A person does not lose his or her residency by leaving his or her residence for a temporary purpose.

An elector is eligible to vote if the elector has lived in Alberta for at least 6 months immediately prior to election day.

Although there has been some suggestion that the 6-month residency be reduced to 3 months, there is reluctance for it to be reduced further to 30 days or eliminated altogether. Overall, there remains strong support for retaining the 6-month residency requirement.

A number of circumstances where residency issues have been brought to the attention of the Committee are discussed below.

(a) Students

The Alberta rules of residency state that when students leave their family residence in Alberta to attend an educational institution in or outside Alberta and rent accommodation while attending school, he or she will be deemed to reside at the family home. However, if a student leaves his or her family residence with the intention of making his or her residence elsewhere, the student loses his or her residency within that family residence area.

Concerns were raised to the Committee about students being denied the right to vote where they are attending school and using municipal services.

It is recommended that the current provisions of the Act remain unchanged.

The recommendation mirrors provincial residency requirements for students, and therefore provides a consistency between provincial and municipal elections.

(b) Summer Villages

In Alberta, non-resident electors and their spouses who are owners of assessable property and whose names appear on the tax roll as the person liable to pay property taxes for property within summer villages are entitled to vote in summer village elections, which take place in the summer.

Summer village administrators raised some questions on the interpretation of the intent of the voter eligibility provision in the *Local Authorities*

Election Act and suggested that the criteria should relate to those named on the title for the property and not the tax roll.

It is recommended that the Act be amended prior to 2007 to clarify that, in addition to the residency requirements, those persons eligible to vote in summer villages are those listed on the Certificate of Title, rather than on the tax roll, as well as the spouses of those listed on the Certificate of Title.

The recommendation helps to clarify the interpretation of who is eligible to vote in summer village elections without disenfranchising voters. Many summer village properties have numerous people named on the registered property who should be entitled to vote as a non-resident property owner. Placing restrictions such as the minimum amount of time an owner must have owned property in the summer village before the election, or number of non-resident owners that may be eligible to vote, would disenfranchise some electors by removing their ability to vote in summer village elections.

(c) Non-resident business owners

The Canadian Federation of Independent Business put forward a suggestion that non-resident owners of businesses located within a local jurisdiction be granted special optional elector status where the business is situated. The rationale is that non-resident business owners should be entitled to vote because they are contributing taxpayers to the local authority, and often pay more tax to the municipality in which their businesses are located than they do to the outlying municipal district or municipality in which they live.

It is recommended that no amendments be made to the Act regarding non-resident business owner eligibility.

It is the Committee's view that municipal elections should be determined by those who live in the municipality.

8.2 List of electors

An elected authority may pass a bylaw to prepare a list of electors who are entitled to vote in an election. A municipality may also prescribe the procedures that will govern the conduct of a local enumeration and use of information from a register. It is then left up to each municipality to decide whether it will create a list of electors and from what sources.

Some Albertans felt voter fraud might be reduced through identification checks or a list of electors or both, and suggested that lists of electors be mandatory, to help encourage electors to vote.

It is recommended that the current provisions regarding lists of electors remain unchanged.

There does not seem to be wide support for a mandatory list of electors at this time. The *Local Authorities Election Act* currently gives local jurisdictions the discretion to prepare a list of electors based on Elections Alberta data. However, many said that keeping the list current would be problematic and it may not provide any more security than is provided by a voter signing a statement at the voting station before receiving a ballot. It appears that very few, if any, local jurisdictions currently use or would use a list of electors for identification purposes.

8.3 Voter identification

Currently, voters are not required to produce any identification for municipal and school board elections and the use of a list of electors is at the discretion of the elected authority. Voters are required to make a statement of eligibility if there is no list of electors or if their name is not on the list.

Voter identification has become an issue due to alleged voter fraud, under age voters and some inconsistent processes with the provincial and federal elections also held in 2004. The Clark Inspection Report into the City of Calgary Ward 10 election recommended that a provision to the *Local Authorities Election Act* be added that would allow an election officer to require a voter to produce identification in order to vote.

The Committee heard that any requirements for identification must be weighed against the potential to discourage or disenfranchise eligible voters, and that there are concerns with a number of voters who do not have identification. Jurisdictions asked for flexibility with voter identification and the latitude to develop what identification documents are acceptable for their community, to verify voter identity and age.

It is recommended that the Act be amended prior to 2007 to provide elected authorities with discretion to pass a bylaw no later than 6 months prior to nomination day that would indicate that identification would be requested in the election, and that the bylaw may also specify the number and types of identification that would be acceptable to the elected authority in order to verify identity and age.

Where such a bylaw is passed, the requirement for identification would be mandatory for all electors within that jurisdiction.

It is further recommended that the Act be amended prior to 2007 to provide that when an elected authority exercises its discretion to pass a bylaw regarding voter identification requirements:

(a) prior to 3rd reading, the bylaw must be advertised in the same manner as notice of election;

(b) the voter identification requirements must be included in the notice of election; and

(c) a person who does not provide the required identification cannot make a statement of eligibility under section 53.

These recommendations are enabling and discretionary, recognizing that there are varying needs, capabilities, and limitations among elected authorities in Alberta. The Committee acknowledges that a requirement for voter identification is no guarantee against voter fraud, nor does it necessarily verify the voter's eligibility in terms of provincial and municipal residency, and Canadian citizenship.

9. Voting

9.1 Special ballots

The 2004 general elections allowed an elected authority the discretion to use special ballots for voters who were unable to vote at an advance vote or on election day due to a physical incapacity, absence from the jurisdiction or because they were an election official, candidate or campaign worker located at a voting station other than at their place of residence.

The use of special ballots has come under scrutiny because of the alleged fraudulent voting activity that occurred in Ward 10 in the City of Calgary 2004 general election. However, in his report, Mr. Clark recommended the continued use of special ballots in local authority elections. Other amendments to this process were recommended in the Clark Inspection Report into the Ward 10 special ballot process, and they are discussed in more detail below.

(a) Provision for the Use of Special Ballots

The *Local Authorities Election Act* currently allows an elected authority the discretion to provide for special ballots by passing a resolution prior to nomination day.

It was proposed in the consultation document that the elected authority must make a resolution providing for the use of special ballots 6 months prior to election day.

It was pointed out by election officers that the decision to use special ballots should be made well in advance to allow sufficient time for the returning officer and staff to properly administer the ballots, as this process is time consuming and requires that special processes be followed.

It is recommended that the Act be amended prior to 2007 to require an elected authority to pass a resolution no later than 6 months prior to nomination day if it chooses to use special ballot voting.

The recommendation received support from stakeholders as it provides election staff the time to properly review and implement the processes. It provides flexibility and discretionary ability to the elected authority to provide for this type of voting process, which in turn could increase voter turnout.

(b) Discretionary production of a list of electors

When electors vote by special ballot, they must complete a certificate envelope, which is the same as the voter eligibility statement that electors must make when attending a voting station.

It was proposed in the consultation document that if special ballots are to be used, a list of electors must be produced in order to verify a voter's identity.

Several voters in the 2004 elections expressed concern over the lack of a list of electors. Concerns have been brought forward that since electors are able to mail in their ballot instead of physically attending a voting station, special ballot voting is less secure.

However, there does not seem to be wide support from stakeholders at this time for the mandatory requirement of a list of electors in conjunction with the use of special ballots.

It is recommended that the current provisions in the Act to apply for a special ballot be maintained and the use of a list of electors be discretionary.

Elected authorities can currently under the Act prepare a list of electors based on Elections Alberta data. However, returning officers have noted that it is a costly exercise to build a list of electors and provides no more security than a voter signing a statement at the voting station before receiving a ballot.

(c) Application by e-mail

Currently, applications for a special ballot may be made in writing, by telephone, fax or in person. It was recommended in the Clark Inspection that in order to be consistent with the *Election Act*, special ballot applications should be permitted via e-mail.

It was proposed in the consultation document that applications for special ballots should be permitted via e-mail, facsimile, telephone or in writing if the individual is on the voters' list. Otherwise, if the person is not on the list of electors, he or she must appear in person.

It is recommended that the Act be amended prior to 2007 to allow applications for special ballots to be accepted by e-mail, in addition to appearing in person, in writing, by fax or telephone.

The Committee felt that, in order to increase voter turnout and due to the application criteria (physical incapacity, absence from local jurisdiction or election officer), the methods to request a special ballot should be as flexible as possible. The recommendation is consistent with equivalent provisions in the *Election Act*.

(d) No limits on special ballot applications per address

Currently, there are no restrictions in the *Local Authorities Election Act* regarding how many special ballot applications may be made per address.

It was proposed in the consultation document that only 2 applications for special ballots be permitted per address.

Concerns were raised in light of the alleged voter fraud in the City of Calgary Ward 10 election that if special ballot applications were limited based on address, it would potentially reduce manipulation of the system.

It is recommended that the current provisions in the Act be maintained with no restrictions on the number of special ballot applications per address.

There was no support for restricting the number of special ballot applications at either the public meetings or from written submissions. It is the Committee's view that this provision would be too restrictive and that many addresses may have more than 2 residents who are eligible for special ballot voting.

(e) Discretionary application deadline

Currently, the *Local Authorities Election Act* allows a voter to apply for a special ballot package up to the close of the voting station on election day. Election officers raised concerns that this timing does not allow sufficient time to process the application, provide a package to the voter, and for the voter to complete the package and return it.

It was proposed in the consultation document that applications for special ballots should only be accepted if made 5 or more days prior to election day.

It is recommended that the Act be amended prior to 2007 to bring in the provisions from the Modified Voting Procedure Regulation to allow the elected authority to accept applications at an earlier date, if it passes a resolution to that effect.

There was no support generally for the proposal to cut-off applications at 5 days prior to election day, as it allows no discretion or flexibility to address special circumstances. Bringing in the equivalent provisions from the Modified Voting Procedure Regulation to allow an elected authority to set its own timelines, it provides the election officers the ability to tailor the process to address some of the timing and processing issues.

(f) Discretionary setting of deadline for return of special ballots

Currently, electors must return their special ballots to the returning officer by 8:00 p.m. on election day. In large jurisdictions with multiple voting stations, the returning officer may be receiving special ballots at a central location which has regular business hours. It was requested that a standard deadline be set for receiving special ballots earlier than the close of voting stations to alleviate this problem and provide the returning officer with sufficient time to complete the special ballot process.

It was proposed in the consultation document that special ballots must be received by the returning officer by 4:00 p.m. on election day.

It is recommended that the Act be amended prior to 2007 to permit the elected authority the discretion to set the timelines by which an elector must return his or her special ballot.

It is further recommended that the Act be amended prior to 2007 to bring in the provisions from the Modified Voting Procedure Regulation regarding the processing and counting of special ballots by a centralized or ward collection.

These recommendations provide flexibility for elected authorities to address special circumstances, and in turn may increase voter turnout. They also permit an elected authority the discretion to coordinate timing and processing logistics.

9.2 Advance vote

The *Local Authorities Election Act* specifies the qualifications required to permit an elector to vote at an advance vote. The elector must sign a prescribed statement confirming he or she meets one of the qualifications.

It was suggested that the qualifications be removed to allow any elector to vote at an advance vote.

It is recommended that the Act be amended prior to 2007 to remove the list of qualifications and prescribed statement from the advance vote provisions.

This recommendation would provide electors with increased flexibility regarding their opportunities to vote, which may, in turn, help improve voter turnout.

9.3 Alternative voting and special voting stations

The *Local Authorities Election Act* provides for special ballot voting and the ability for a municipality to pass a bylaw to prescribe the process for the taking of votes by voting machines, vote recorders or automated voting machines. The *Local Authorities Election Act* currently allows only one voting station to be established for each voting subdivision. The Act also permits regulations to be passed to prescribe a system for the conduct and procedure of an election or vote that is not provided for or that is a modification of a system prescribed by the Act.

Larger jurisdictions have stated that they would like the legislation to include flexibility for the returning officer to be able to establish more than one voting station per voting subdivision (special voting stations) without seeking a ministerial order. These special voting stations would be in addition to the regular voting stations and are intended to attract voters from traditionally under-represented groups of people. Examples might include a special voting station at a university or agency that provides services to homeless persons or at a central location (e.g. City Hall) as an alternative to voters voting at their place of residence within the jurisdiction.

Discussions and debate over increasingly low voter turnouts at elections at all government levels have spurred conversations about the use of alternative voting methods. Demand for alternative voting methods, such as telephone and internet voting, is increasing, especially in urban centers.

In focus group sessions held with election officers, the main concerns raised regarding alternative voting methods were security, process, and cost.

It is recommended that a group or committee be established to review alternative types of voting in greater detail, including examining alternative voting methods, and the potential security, privacy, validation and process issues that may arise as a consequence of implementing alternative voting methods. This group should include representatives from municipalities and the province and present its findings and recommendations for possible consideration after the 2007 general elections.

It is further recommended that additional research and consultation be conducted regarding the provision to allow a local jurisdiction the discretion to establish special voting stations after the 2007 general elections.

The Committee supports the concept of alternative voting and establishing special voting stations in principle as it provides increased flexibility to a local jurisdiction to tailor election processes to meet the needs of its voters, which, in turn, may increase voter turnout. To ensure integrity is maintained and given the complexity of many alternative voting methods, there was a consensus that stakeholders and experts should be engaged, especially when studying the security and process issues around electronic voting.

9.4 Incapacitated voting

The *Local Authorities Election* Act allows an elector who is incapacitated by blindness or another physical condition that affects the elector's ability to mark a ballot to receive voting assistance at a voting station.

Most commonly, a relative or friend will provide the required assistance. Before doing so, the friend or relative must complete a statement in the prescribed form stating that he or she will mark the ballot according to the incapacitated elector's instructions.

There are inconsistencies in language between someone who cannot read English and therefore needs an interpreter (s. 72) and someone who cannot read because he or she is blind (s. 78). Section 78 clearly allows the "friend" to accompany a blind voter into the booth. Section 72 is silent on the issue and yet if a voter cannot read English he or she will also likely require assistance.

It is recommended that the Act be amended prior to 2007 to allow a local jurisdiction the discretion to provide voting instructions in languages other than English to those voters who need assistance due to being unable to read or understand the English language.

This recommendation supports the ability for a voter who requires assistance to receive written assistance.

9.5 Institutional voting

The *Local Authorities Election Act* allows candidates and agents to attend institutional voting stations. The Modified Voting Procedure Regulation clarifies that candidates and agents may not attend voting processes at institutional voting stations when the deputy is conducting a bed to bed vote.

The Alberta Municipal Clerks Association suggests that the presence of candidates and agents in an institution can be intimidating and unduly influential to the voting decisions of residents. In addition, spaces provided for voting stations in institutions are usually comparatively small.

It is recommended that the Act be amended prior to 2007 to allow agents, scrutineers and candidates to attend institutional voting stations, but not be allowed to go bed to bed when the deputy is conducting a bed to bed vote.

This recommendation supports the principles of acknowledging and encouraging the public's role and participation in the election process and security of the process.

9.6 Modification of an election system

The *Local Authorities Election Act* authorizes the Lieutenant Governor in Council to make a regulation that permits a local jurisdiction to modify an election system prescribed by the Act. As this provision currently exists, it includes two separate steps – a regulation passed by the Lieutenant Governor in Council to authorize the modified election procedure and a Ministerial Order to authorize the municipality's bylaw adopting the system prescribed in the regulation.

This two-step process seems excessive and time consuming in order to receive approval for a modification of an election procedure prescribed in the Act.

It is recommended that the Act be amended prior to 2007 to streamline the approval of modifications to the election process so that the Minister, rather than the Lieutenant Governor in Council, can pass regulations to modify an election process prescribed by the Act.

This recommendation would streamline a process that is very cumbersome at present. It supports the province's ability to respond quicker to a request from a local jurisdiction. This also supports the commentary of the recommendation in the Clark Inspection Report relating to continued optional procedures, that "the Act should set out a standard procedure for local elections and then facilitate either variations of that procedure or alternative procedures where they are more appropriate to the context of a local authority."

10. Tie Breaking

If there is an equal number of ballots cast for 2 or more candidates for the same office and it is necessary to determine which of the candidates is elected, the *Local Authorities Election Act* requires the returning officer to break the tie. The names of the candidates receiving the equivalent number of votes are placed into a hat and whichever name is drawn from the hat is declared elected.

The Committee heard of some concerns relating to the process for tie breaking, but other solutions or alternatives offered by stakeholders did not provide any further advantage over the current system.

It is recommended that the current provision remain unchanged.

The Committee does not see any need to amend the Act in this regard, as the process and legislation seems to be clear and reasonable.

11. Contested Elections

An election may be contested before the court based on one of the following:

- the conduct of the election;
- the member's right to hold office; or
- the conduct of a vote on a bylaw or question.

Only a candidate or elector may raise the issue before the court.

It is recommended that the Act be amended prior to 2007 to allow the elected authority, in addition to a candidate or elector, to raise election issues before the court.

Giving the elected authority the same ability as an elector or candidate to bring forward election concerns to be legally reviewed adds another party to challenge election irregularities. This recommendation helps promote the integrity of the election process and may remove an unfair onus and cost to a candidate or elector.

12. Offence Provisions

The *Local Authorities Election Act* contains specific provisions regarding offences conducted during an election prescribed under the Act and specifies that a person who is found guilty of an offence is liable to a fine of not more than $10,000 and/or imprisonment of not more than 6 months.

The use of special ballot voting was added in 2003 to the Act. A recommendation was made in the Clark Inspection Report that the offence provisions should be reviewed in light of the addition of new processes in the Act.

It is recommended that the current provisions remain unchanged.

Upon review, the Committee finds the current offence provisions in section 148 of the Act to be broad enough to address and apply to contraventions relating to special ballots. In addition, the penalty provisions in this section relating to fines are higher than the fines specified in the *Election Act*.

13. Consistency with Provincial Processes and Terminology

13.1 Processes

The *Local Authorities Election Act* prescribes the processes and procedures for municipal and school board elections. The *Election Act* prescribes the processes and procedures for the election of provincial Members of the Legislative Assembly.

The Act currently permits a municipality to enter into an information sharing agreement with Elections Alberta, who are responsible for conducting elections under the *Election Act*, for the purposes of compiling or revising a permanent electors' register.

The legislation enables local election officers to work with Elections Alberta in order to create and maintain an electors' register through information sharing agreements. One of the recommendations of the Clark Inspection Report is that Alberta Municipal Affairs and Elections Alberta work more closely together to produce a common register of electors that may be used for all elections in Alberta. This may also involve entering into discussions with Elections Canada and other jurisdictions in respect of the information sharing required in order to produce a common register of electors. However, local jurisdictions expressed to the Committee that any common list of electors to be shared among orders of government must take into account the requirement to know school district residency.

The Clark Inspection Report also recommended that Municipal Affairs and Elections Alberta consult on a number of items that could lead to greater understanding and consistencies between the two electoral processes, and administrative efficiencies. In that regard, several suggestions were made verbally or written to the Committee, including the following:

- the election team in municipalities should be appointed by the province so as to be as independent and transparent as possible;
- there should be common boundaries for provincial electoral divisions and municipal wards;
- there should be common voting stations for provincial and municipal elections;

- the voters' list should be prepared by the province at the time a municipal election takes place; and
- provincial election materials should be better differentiated from municipal election materials, particularly when elections are held in the same year.

The Committee also heard about dissimilarities between the provincial and municipal and school board elections that may necessitate differences in processes between the two, including the following:

- local elections are non-partisan;
- municipalities elect councilors at large or use a ward system, and may elect more than one councilor in a ward;
- local jurisdictions may be significantly larger than provincial ridings;
- at the local level, significantly more persons are elected than one per provincial riding; and
- some school boards are party to multi-jurisdictional election agreements.

It is recommended that Alberta Municipal Affairs consult with Elections Alberta and other stakeholders to identify and determine which, if any, processes should be made more consistent for possible consideration after the 2007 general elections.

A number of processes would need to be reviewed and would require further consultation with those directly affected. The outcome could result in processes that are more consistent and easier to understand and apply, and thus may increase voter turnout.

13.2 Terminology

In some cases, the *Local Authorities Election Act* and the *Election Act* use different terminology for similar processes, which can confuse electors. The Clark Inspection Report into the City of Calgary Ward 10 election recommended that Alberta Municipal Affairs work with Elections Alberta to develop common terminology to be used in the Acts and regulations governing both provincial and local elections.

The Committee heard that common terminology would be a good idea in principle, as it would make the election processes more consistent and easier to understand. However, the Committee also heard that the use of common terminology between municipal and provincial elections could lead to more confusion among election workers because the actual procedures, scale and partisan nature between the two types of elections are quite different.

It is recommended that Alberta Municipal Affairs work with Elections Alberta and consult further with stakeholders to first identify and determine which processes and rules can be harmonized. Changes could be recommended to terminology, where appropriate, that would be common to those processes and rules. These proposed changes should be brought forward for consideration after the 2007 general elections.

A number of stakeholders need to be engaged and consulted regarding harmonizing processes, rules and terminology to ensure that any changes positively impact voters and procedures between provincial and municipal election processes. A positive outcome may increase voter turnout in both elections.

14. School Board Trustee Elections

The *Local Authorities Election Act* and the *School Act* govern the conduct of elections for school board trustees.

Some issues or concerns that were raised through public submissions regarding the election of school board trustees include:

- The question of school board "residency" continues to be an issue. Clarification is required regarding voters eligibility to vote for public or separate school board trustees.
- There needs to be clear measures set out that can be taken if any elected school board trustee is either charged (suspension from duties) or convicted (terminated) of a crime during a term.
- Further clarity needs to be provided at voting stations and for nominations on who is eligible to vote or run as a trustee. There is potential confusion on the eligibility requirements where people may vote for or make nominations for a separate school board trustee because they have a child attending that school. There needs to be some type of proof, such as a signed declaration to verify eligibility requirements, before a voter is given a ballot or allowed to make a nomination.
- A new provision should be added to the *Local Authorities Election Act* to prevent a candidate to run for school board trustee if he or she is suing the body for which he or she is running for election.
- The Act allows a municipality to prepare and maintain a permanent electors register. It has been requested that school boards be permitted this discretionary ability to prepare and maintain a permanent electors register and as such replace the use of

"municipality" with "local jurisdiction" to include school boards in addition to municipalities.

- A few requests were received relative to changing forms such as the voting register to clarify school residency requirements.

It is recommended that the current provisions regarding the election of school board trustees remain unchanged, but these issues and concerns should be forwarded to Alberta Education for its consideration.

It is the responsibility of Alberta Education to give direction to policies regarding the election and eligibility criteria for school board trustees.

15. Administrative and Technical Amendments

As previously noted, the *Local Authorities Election Act* came into force in 1983 and has had amendments made to it over time. During the course of this review and in the use of the Act a number of discrepancies, inconsistencies, and referential and wording issues have been brought to the attention of the Committee. Although considered minor in nature, it has been noted by the election officers who implement the procedures that these concerns can hamper the effective and efficient conduct of an election.

It is recommended that the Act be amended prior to 2007 to make the following administrative and technical amendments:

- **Clarify the intent of sections 2 and 3 by adding to subsection 2(4) and subsection 3(5) that "all bylaws and resolutions, except for a candidate's deposit, of the elected authority responsible for the conduct of the election apply to those elected authorities who have entered into a joint agreement".**
- **Add a reference to sections 77.1 to 77.3 in section 5.**
- **Clarify that a declaration under section 10(2) can only be made if the "entire" offices for the elected authority have been filled by acclamations.**
- **Add the phrase "or the day fixed in the Municipal Government Act" to subsection 11(1)(b) to clarify the process to set a date for a by-election.**
- **Add "presiding" before "deputy" in section 20.**
- **Review and delete subsections 22(1)(e) and (f), if appropriate, as sections 22(2) and (3) appear to make those provisions inapplicable in all cases.**

- Amend section 28(1.1) by replacing the phrase "The person who is filing" with "The person who is being nominated as a candidate." This is to clarify that the candidate is the person responsible for the content of the nomination papers as it is common for a person other than the candidate to submit them to the returning officer.
- Delete the phrase "eligible to vote in the election" from section 28(4). Nomination papers should be able to be inspected by any person, as it is a public document.
- Add the phrase "twenty-four hours following" before "nomination day" and delete the word "on" in section 28(6). This clarifies that the list of candidates is the final list following the withdrawal period.
- Rewrite sections 34(2.1) and 34(3) to mirror the wording under section 28(4) and (5).
- In section 40(1) and (2) delete the words "or other person" following "deputy" and "or other person presiding" following "deputy's".
- Add a new section 40(3) to clarify the process used when a new ballot box is required to state that the process outlined in subsection 40(1) and (2) shall be repeated if additional ballot boxes are required during the hours given for voting. The ballot box slot of the full ballot boxes shall be sealed with the presiding deputy's seal so that no ballots may be added and remain in view of the presiding deputy until the close of the voting station.
- The word "void" should be deleted and replaced with the word "rejected" for consistency purposes under section 42(3).
- A new subsection be added as section 46(2.1) that clarifies "if in a joint agreement under section 3 of this Act, the local jurisdiction conducting the election has established different hours for voting at voting stations which are within local jurisdictions which have passed a bylaw pursuant to subsection (2)." This clarifies the process so that a local jurisdiction can have different hours of voting in different locations within an area. This allows a city to open a voting station in another jurisdiction at the same time as the local election's when running a school election under joint agreement. This way a voter is not inconvenienced by only being able to cast their ballot for municipal council and having to return to cast a ballot for a school board trustee at a later time.
- Add a reference to sections 77.1 and 83 in subsection 47(2).

- **Add the phrase to subsection 50(2) "providing the candidate has not withdrawn" after "under section 32".**
- **Add "presiding" before "deputy" in both instances in section 67(2).**
- **Add "presiding" before "deputy" in section 69(2).**
- **Replace "deputy" with the "returning officer" in section 70(1).**
- **Add "presiding" before "deputy" in section 70(2), (4) and (5).**
- **Add a reference to section 75 in section 84(3).**
- **Replace "void" with "rejected" in section 86(1).**
- **Add "special ballots not returned" and "persons objected to" in section 88(1).**
- **Delete the reference to "voting register" and replace with "special ballot register" in subsection 77.2(4)(a) and 77.2(5).**
- **Add a new subsection (5.1) to section 77.1 to state "if the elector is not in the special ballot request system or has already returned a special ballot, section 77.2(5)(b) applies.**
- **Add a new subsection (7.1) to section 77.2 to state "special ballots issued to an elector and not received by the returning officer prior to the close of voting on election day shall be recorded as ballots not returned on the prescribed form".**

The proposed administrative and technical amendments are based on the Act in its current form, and may be subject to change in precise wording depending on the approach taken to address them by Municipal Affairs in consultation with stakeholders and Legislative Counsel. However, these proposed amendments would clarify the processes and intent of the provisions in the Act and further promote efficiency and transparency in the implementation of election procedures.

16. Forms

16.1 Persons objected to by a candidate, agent, scrutineer or returning officer

A candidate or agent may object to an elector's eligibility to vote which is noted at the bottom of the voter's register form. All election documents, including the voting register, are sealed in the ballot box after the election for a period of 6 weeks in case of a challenge.

The ballot account form filled out at every voting station does not include the number of persons objected to under section 54. An election may be challenged if the number of persons objected to was sufficient to affect the result of an election but there is no ability to review the voting register after election night without breaking the seal on the ballot box.

It is recommended that the Act be amended prior to 2007 to provide authority to include the number of persons objected to on the ballot account form.

Recording the number of persons objected to will assist in determining whether an election should be challenged.

16.2 Consequential amendments and streamlining of the Local Authorities Election Forms Regulation

The *Local Authorities Election Act* authorizes the Minister to make regulations prescribing forms for use in the Act.

A number of requests have been received relating to the changing of forms and a number of the proposed recommendations for the amendment of the Act will result in consequential amendments to the regulation prescribing the forms. Returning officers have brought forward concerns with the wording, redundancy and use of some of the prescribed forms when conducting an election. Election officers have also requested that they be involved in the review of these forms as the people responsible for the practical implementation of the forms. It has also been noted that all election forms should be available in an on-line format that will allow customization by each local jurisdiction.

The following list notes some of the forms that should be considered or reviewed for changes pursuant to any amendments made to the Act:

- Campaign workers' identification;
- Nomination forms;
- Agent statements;
- Voter registers;
- Voter assistance forms;
- Special ballot forms; and
- Ballot account forms.

It is recommended that the Local Authorities Election Forms Regulation be amended prior to 2007 based on the amendments to the Act and reviewed for streamlining.

It is further recommended that stakeholders be consulted prior to any amendments to the Regulation.

This recommendation would support the principles put forward by the Alberta Municipal Clerks Association to ensure that the implementation of election processes are efficient, clear and reasonable. This also acknowledges the role the public has in the election process.

17. Other Comments

Some items were raised to the Committee which were outside the scope of the review of the *Local Authorities Election Act*, but are mentioned here merely for information. These items include provisions under the *Municipal Government Act* relating to establishment of ward systems, councillor disqualification and the enforcement of such disqualification, and pecuniary interest as it relates to gifts and other donations received by councillors.

APPENDICES

Appendix 1 – List of Presenters at Public Meetings

Name	Organization
Al Harvey	Town of Bonnyville
Albert Opstad	Edmonton resident
Albert Pidruchney	County of Two Hills
Allen Sayler	County of Two Hills
Anita Blais	Summer Village of Castle Island
Anita Hawkins	Regional Municipality of Wood Buffalo
Barbara Clifford	City of Calgary
Brenda Rauckman	City of Fort Saskatchewan
Brent Jewell	Strathcona County
Brian Hagen	Bow River Irrigation District
Brock Smith	County of Grande Prairie
Carolyn Coutts	City of Lethbridge
Carolyn Kolebaba	Northern Sunrise County
Cathy Smith	City of Medicine Hat
Clifford Soper	Lacombe County
Coral Callioux	Alberta Municipal Clerks Association
David H. Edey	City of Edmonton
David Sarsfield	Town of Lac La Biche
Diane Newman	Edmonton resident
Dianne Nellis	City of Grande Prairie
Duncan Stewart	Summer Village of Val Quentin
Eva Chatelain	Native Counselling Services
Gus Cameron	Calgary resident
Helen Laroque	City of Calgary
J.R.W. (Rod) Sykes	Calgary resident
Jack O'Toole	County of Grande Prairie
Janette Ferguson	City of Grande Prairie
Jim Stevenson	Calgary resident
Johanna Nielsen	City of Spruce Grove
Ken Ikle	Lethbridge resident
Kevin Milnes	Calgary Ward 10 resident
Leanne Beaupre	City of Grande Prairie
Linda Sloan	City of Edmonton

Linda Tanigami	City of Brooks
Lori Donner	Summer Village of Larkspur
Lorna Storoschuk	Town of Bonnyville
Lucien Turcotte	Municipal District of Smoky River
Marcel Latouche	Institute for Public Sector Accountability
Mary Ann Sorge	Palliser Regional Schools
Michael Heron	Aboriginal Metis Citizens Alliance of Canada
Mike Radzick	Municipal District of Clear Hills
Morris Flewwelling	City of Red Deer
Myra Reiter	Village of Norglenwold
Myron Goyan	Town of Elk Point
Oscar Fech	Calgary resident
Paul Chalifoux	City of St. Albert
Patrick Lynch	Village of Alix
Peter Wlodarczak	Strathcona County
Ray Ewaskiw	Town of Lac La Biche
Raymond Prevost	Town of Bonnyville
Rebecca Aizenman	Calgary resident
Ric McIver	City of Calgary
Richard Puckridge	Calgary resident
Richard Rajotte	Edmonton resident
Robert Frost	Calgary resident
Scott Hennig	Canadian Taxpayers Federation
Sharon Clarkson	Regional Municipality of Wood Buffalo
Shelley Lindsay	Summer Village of Sandy Beach
Steve Thompson	Alberta Municipal Clerks Association
Sunni-Jeanne Walker	Town of Manning
Surekha Kanzig	Regional Municipality of Wood Buffalo
Tammie Dick	Village of Linden
Terry Engen	Town of Lacombe
Terry Kerkhoff	Town of Picture Butte
Wanda Mortensen	City of Brooks
Wayne Ayling	City of Grande Prairie

Appendix 2 – List of Submissions Received

Name	Organization
	Alberta Municipal Clerks Association
	Alberta Urban Municipalities Association
	City of Grande Prairie
	Holy Spirit Separate School Board
	Municipal District of Clear Hills No. 21
	Public School Boards Association of Alberta
	Woodlands County
Administration	City of Edmonton
Adrien Graci	
Allan Romeril	County of Warner No. 5
Albert Opstad	
Barbara Clifford	City of Calgary
Blair Cosgrove	
Carol Bazinet	Calgary Board of Education
Carol Schofield	Town of Stony Plain
Carol Steele	Calgary Marlborough Community Association
Carolyn Kolebaba	Northern Sunrise County
Cathie Williams	Calgary Roman Catholic Separate School District 1
Cathy Oleson	Strathcona County
Cathy Smith	City of Brooks
Cindy Husband	
City Council	City of Edmonton
City Council	City of Calgary
City Council	City of Red Deer
Council	Municipal District of Smoky River No. 130
Dan Kelly and Corinne Pohlmann	Canadian Federation of Independent Business
David Anderson	Alberta School Boards Association
David H. Edey	The City of Edmonton
Debbie Olsen	Town of Lacombe
Debbie Yeung	
Diane Newman	
Dianne Nemeth	City of Lethbridge
Don McCallum	Summer Village of Sunset Beach
Doug Tymchyshyn	Parkland County
Douglas Combs	
Frank Webb	
Gordon Harris	

Name	Organization
Gordon Stamp	
Gregory Burt	Town of Cardston
Harvey Prockiw	Lamont County
Hilary Lynas	Alberta Government Services
Iris Larson	MD of Provost No. 52
J. Denise Exton	Strathcona County
J.R.W. (Rod) Sykes	
Janice MacDonald	
Jean Champagne	St. Paul Board of Education
Jeff Redmond	St. Thomas Aquinas R.C.S.R.D. No. 38
Jeff Renaud	Municipal District of Big Lakes
Jim Woodward	County of Athabasca No. 12
Keith Bender	Cypress County
Keith Fowler	
Ken Ikle	
Ken Porter	Brazeau County
Kevin Miller	City of Wetaskiwin
Kevin Miner	Saddle Hills County
Laura Kennedy	
Linda Sloan	City of Edmonton
Lorraine Thiessen	
M.J.Wilhelm	
Marcel Latouche	Institute for Public Sector Accountability
Margaret Jones	Beaver County
Marta Ann Krause	
Maureen Calder	Lethbridge
Maureen Schwab	Drayton Valley
Michael Minchin	Town of Drumheller
Mike Gramatovich	Northern Gateway Regional Division No. 10
Mike Heron	
Murray K. Olsen	Summer Village of Argentia Beach
Patricia Cocks	Prairie Rose School Division No. 8
Paul Chalifoux	City of St. Albert
Paul Ponich	Aspen View Schools
Penny Fox	Smoky River
Peter Wlodarczak	Strathcona County
Quinten Emter	
Randy Dubord	Town of Stony Plain
Ray Ewaskiw	Town of Lac La Biche
Reeve and Council	County of Vermilion River No. 24

Name	Organization
Ric McIver	City of Calgary
Richard H.M. Plain	St. Albert
Richard J.P. Rajotte	
Richard Puckridge	
Rob Schwartz	
Robert Frost	
Robert Nantel	Conseil scolaire Centre-Nord
Scott Hennig	Canadian Taxpayers Federation
Teresa Dersch	Chinook's Edge School Division No. 73
Theresa McKelvie	M.D. of Northern Lights No. 22
Town Council	Town of Ponoka
Victor Bidzinski	

ISBN 0-7785-4211-4